

Message Text

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43

ACTION EB-07

INFO OCT-01 EA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

 DOTE-00 INR-07 NSAE-00 RSC-01 FAA-00 L-02 SS-15 NSC-05

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 7806

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E.O. 11652: N/A

TAGS: EAIR, JA

SUBJECT: CIVAIR - GOJ INTERPRETATION OF CIVAIR PROVISIONS OF
OKINAWA REVERSION AGREEMENTS

REF: (A) STATE 81932, MAY 12, 1973
 (B) TOKYO 6730, MAY 23, 1974

SUMMARY: ON JANUARY 30 E/C COUNS DISCUSSED WITH NAKAMURA
(DIRECTOR, INTERNATIONAL AFFAIRS DIVISION, JCAB, MOT) QUESTION
OF US AVIATION RIGHTS AT NAHA. NAKAMURA MAINTAINED POSITIONS
GIVEN IN FONOFF'S LETTER OF APRIL 5, 1973. SINCE NAKAMURA SAID
HE WAS SPEAKING ONLY FOR JCAB, NOT FOR GOJ, EMBASSY WILL AGAIN
RAISE ISSUES WITH FONOFF. IF THERE IS NO CHANGE IN FONOFF
POSITION, EMBASSY PROPOSES TO SEND WRITTEN REPLY TO APRIL 5, 1973
LETTER, ADVISING FONOFF THAT USG DOES NOT ACCEPT INTERPRE-
TATIONS THERIN, SO THAT RECORD WILL BE CLEAR FOR NEGOTIATIONS
WHICH WILL PRECEDE TERMINATION OF FIVE- YEAR TRANSITIONAL
PERIOD. END SUMMARY.

1. E/C COUNS OPENED MEETING BY RECALLING THAT IN LETTER
FROM FONOFF DATED APRIL 5, 1973, GOJ HAD REOPENED TWO
AVIATION ISSUES WHICH US HAD CONSIDERED SETTLED DURING
OKINAWA REVERSION NEGOTIATIONS. THESE ISSUES CONCERNED
(A) PERMANENCY OF US RIGHTS AT NAHA AND (B) LEVELS OF
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FREQUENCY AND CAPACITY BY US CARRIERS SERVING NAHA DURING

FIVE-YEAR TRANSITION PERIOD FOLLOWING REVERSION. HE NOTED THAT EMBASSY HAD LONG SOUGHT TO DISCUSS THESE ISSUES WITH JCAB, ON BASIS OF INFORMAL WRITTEN VIEWS SUBMITTED IN DECEMBER 1973, AND HAD BEEN VERY FOREBEARING IN FACE OF REPEATED POSTPONEMENTS.

2. NAKAMURA SAID JCAB HAD STUDIED OUR INFORMAL PAPER BUT COULD NOT AGREE WITH US INTERPRETATIONS. IN EXPLAINING REASONS FOR THIS DISAGREEMENT, HOWEVER, NAKAMURA SAID HE WOULD BE SPEAKING ONLY ON BEHALF OF JCAB; OFFICIAL VIEWS OF GOJ COULD BE CONVEYED ONLY THROUGH FONOFF. WITH THIS DISCLAIMER, NAKAMURA MADE FOLLOWING POINTS: (A) IT WAS MUTUALLY ACCEPTED THAT AVIATION DISCUSSIONS IN 1970/71 WERE BASED ON CONCEPT THAT BUSINESS INTERESTS OF US AIRLINES THEN OPERATING AT NAHA WOULD NOT BE ADVERSELY AFFECTED BY RETURN OF OKINAWA TO JAPAN. ON BASIS THIS CONCEPT, GOJ CONSIDERED THAT US AIR SERVICES AT NAHA SHOULD BE LIMITED TO FIVE-YEAR TRANSITION PERIOD. DURING NEGOTIATIONS, GOJ SOUGHT TO HAVE THIS POSITION EXPLICITLY STATED IN A SIGNED MEMORANDUM OF UNDERSTANDING (MOU). AT THE SAME TIME, US TOOK POSITION THAT NAHA RIGHTS SHOULD BE GRANTED FOR AN INDEFINITE PERIOD, AND SPECIFIC LANGUAGE TO THAT EFFECT WAS SUGGESTED FOR INCLUSION IN THE PROPOSED MOU. HOWEVER, IN MOU ULTIMATELY AGREED UPON, AND SIGNED ON JUNE 17, 1971, NEITHER OF THESE VIEWS WAS EXPLICITLY EXPRESSED. THIS FACT, HOWEVER, DID NOT MEAN THAT GOJ HAD CHANGED ITS INTENTION TO TERMINATE US RIGHTS AT NAHA AT END OF 5-YEAR TRANSITION PERIOD UNLESS AGREEMENT WAS REACHED AT THAT TIME ON CONTINUATION OF SUCH RIGHTS.

(B) GOJ AGREED TO ADD NAHA AS CO-TERMINAL WITH TOKYO AND OSAKA IN AMENDED SCHEDULE TO BILATERAL US-JAPAN AVIATION AGREEMENT AS WAY OF FORMALIZING QTE TEMPORARY UNQTE STATUS OF NAHA. GOJ HAD SOUGHT TO ADD A FOOTNOTE TO THE SCHEDULE SPECIFICALLY STATING THAT NAHA RIGHTS WOULD BE TERMINATED AT END OF THE TRANSITION PERIOD IF NO AGREEMENT COULD BE REACHED ON THEIR CONTINUATION. SINCE US WOULD NOT AGREE TO SUCH A FOOTNOTE, GOJ LIMITED OFFICIAL USE

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SETTLED FOR INCLUSION OF AN ANNEX TO THE SCHEDULE, BASED ON LANGUAGE OF PARA 4 OF JUNE 17, 1971 MOU. JCAB CONSTRUES THS ANNEX TO HAVE SAME EFFECT AS THE PROPOSED FOOTNOTE; I.E. THAT GOJ CAN TERMINATE NAHA RIGHTS AT END OF 5-YEAR TRANSITION PERIOD UNLESS AGREEMENT IS REACHED ON VALUE OF, AND COMPENSATION FOR, THE RIGHTS. CONVERSELY, JCAB CONCEDES THAT IF MUTUAL AGREEMENT IS REACHED ON COMPENSATION, NAHA WILL BECOME

QTE UNCONDITIONAL UNQTE CO-TERMINAL WITH TOKYO AND OSAKA.

(C) IN ACCORDANCE WITH CONCPET THAT PURPOSE OF TRANSITIONAL ARRANGEMENT WAS TO ENSURE THAT US CARRIERS NOT SUFFER BUSINESS LOSS, AND THAT US WOULD NOT PAY FOR NAHA RIGHTS DURING TRANSITIONAL PERIOD, JCAB CONSIDERS THAT ANY SUBSTANTIAL INCREASE IN FREQUENCIES OR CAPACITY DURING THAT PERIOD WOULD BE UNACCEPTABLE TO GOJ..

3. E/C COUNS COMMENTED THAT, IN TERMS OF THE SPECIFIC LANGUAGE OF AGREEMENTS REACHED IN AVIATION TALKS DURING OKINAWA REVERSION NEGOTIATIONS, JCAB CLEARLY SEEMS TO BE TRYING TO INJECT CONDITIONS THAT DO NOT EXIST. HE NOTED THAT GOJ DID INDEED RAISE ALL OF THE FOREGOING POINTS IN THE NEGOTIATIONS BUT NONE WAS ACCEPTED BY US; FOR THAT REASON, CONDITIONS STATED BY NAKAMURA ARE NOT REFLECTED IN FINAL AGREEMENTS. HE INDICATED IN PARTICULAR THAT, SINCE THE US-JAPAN BILATERAL AVIATION AGREEMENT DOES NOT PROVIDE FOR CAPACITY LIMITATIONS, JCAB HAS NOT BASIS FOR ARGUING THE RIGHT TO REJECT REQUESTS BY US CARRIERS FOR INCREASED CAPACITY AT NAHA DURING TRANSITIONAL PERIOD. TO E/C COUNS' QUESTION AS TO HOW JCAB WOULD JUSTIFY ITS ACTION IF IT SHOULD REJECT REQUEST FOR CAPACITY INCREASE, NAKAMURA REPLIED ONLY THAT JCAB WOULD DECIDE IN EACH CASE WHETHER REQUESTED INCREASE WAS QTE SUBSTANTIAL UNQTE.

4. SINCE NAKAMURA LABELLED HIS COMMENTS AS JCAB, RATHER THAN GOJ, POSITION, EMBASSY WILL RAISE ISSUE ONCE AGAIN WITH FONOFF. PRESENCE OF NEW DIRECTOR OF LIMITED OFFICIAL USE

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FIRST NORTH AMERICA DIVISION (FUJII IN PLACE OF MATSUURA) MAY RESULT IN FRESH LOOK AT PROBLEM BY FONOFF.

5. HOWEVER, IF FONOFF MAINTAINS VIEWS EXPRESSED IN APRIL 5, 1973 LETTER, AS IS HIGHLY PROBABLE, EMBASSY DOES NOT BELIEVE WE SHOULD CONTINUE TO PRESS OR ESCALATE ISSUE. UNDER BOTH USG AND GOJ INTERPRETATIONS IT WILL BE NECESSARY TO NEGOTIATE PAYMENT FOR NAHA RIGHTS BEFORE END OF FIVE-YEAR PERIOD. IF THESE NEGOTIATIONS SUCCESSFULLY CONCLUDED, ISSUE OF PERMANENCY OF NAHA RIGHTS WILL BECOME MOOT. SIMILARLY, LIKELIHOOD OF US CARRIERS REQUESTING SUBSTANTIAL INCREASE IN OPERATIONS AT NAHA APPEARS MINIMAL. THUS, IT WOULD SEEM SUFFICIENT FOR EMBASSY TO SEND LETTER TO FONOFF (FUJII), IN RESPONSE TO

APRIL 5, 1973 LETTER, OFFICIALLY INFORMING GOJ THAT WE
DO NOT ACCEPT ITS INTERPRETATIONS OF MOU AND REITERATING
OUR POSITION ON NAHA RIGHTS. THIS WOULD LEAVE ISSUE IN
SUSPENSE UNTILL BILATERAL NEGOTIATIONS, TO BE HELD BEFORE
MAY 1977, BUT WITH USG POSITION CLEARLY SPELLED OUT.

HODGSON

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Draft Date: 05 FEB 1975
Decaption Date: 01 JAN 1960
Decaption Note:
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Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
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